

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Vernon D. Williams,
and Colleen Williams

Plaintiffs,

vs.

REPORT AND RECOMMENDATION

Countrywide Home Loans,
Raquel Robinson, Joe Price,
Barbara Desoer, Brian White,
Countrywide Bank, Arnold
Levin, Treasury Bank, N.A.,
James Furash, Paul De Coff,
Countrywide Mortgage
Ventures, LLC,

Defendants.

Civ. No. 09-2010 (PAM/RLE)

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This matter came before the undersigned United States Magistrate Judge upon the routine supervision of cases pending before us, and upon an assignment made in accordance with the provisions of Title 28 U.S.C. §636(b)(1)(B).

This matter was commenced on or about June 23, 2009, by the filing of a Complaint in the Minnesota District Court for Cass County. See, Notice of Removal, Docket No. 1, ¶1. On July 21, 2009, the case was transferred from the Cass County

District Court to the Crow Wing County District Court. Id. at ¶2. On July 31, 2009, the Defendants Countrywide Home Loans, Inc., Countrywide Bank, N.A., Treasury Bank, N.A., Countrywide Mortgage Ventures, L.L.C., Raquel Robinson, Joe Price, Barbara Desoer, Brian White, Arnold Levin, James Furash, and Paul De Coff (collectively “the Countrywide Defendants”), filed a Notice of Removal to this Court, and on that same date, the Countrywide Defendants filed their Answer.

In particular, the Countrywide Defendants stated in their Answer, as follows:

Plaintiffs have also named persons as individual defendants who are past and present employees and officers of Countrywide. This Answer is intended to be responsive with regard to allegations made by Plaintiffs against officers and employees of Countrywide, but only to the extent that Countrywide is responsible for the authorized acts of its officers and employees and is not intended as an Answer with regard to any allegations or claims directed at the named individuals as individuals, or as legal defense of any individual as a private person so named in the Complaint. Countrywide has been unable to confirm whether service of process has been effectuated with regard to any of the named individuals.

See, Answer, Docket No. 2, at pp 2-3.

On January 7, 2010, it having appeared that one hundred and twenty (120) days had passed since this action was removed, and that the individual Countrywide Defendants -- namely, Raquel Robinson, Joe Price, Barbara Desoer, Brian White, Arnold Levin,

James Furash, and Paul De Coff -- had still not been served with the Summons and Complaint, as required by Rule 4(m), Federal Rules of Civil Procedure, this Court issued an Order, which stated as follows:

That the Plaintiffs are directed to effectuate service of process, and provide proof thereof, on the individual Countrywide Defendants, namely Raquel Robinson, Joe Price, Barbara Desoer, Brian White, Arnold Levin, James Furash, and Paul De Coff, within twenty (20) days of the date of this Order. If the Plaintiffs fail to effectuate proper service upon those Defendants, the Court shall recommend that this action be dismissed, as to Raquel Robinson, Joe Price, Barbara Desoer, Brian White, Arnold Levin, James Furash, and Paul De Coff, for failure to effect proper service and for failure of prosecution.

See, Order, Docket No. 21, pp. 3-4.

The Plaintiffs have failed to abide by the terms of our Order of January 7, 2010. Since we have previously forewarned the Plaintiffs of the potential consequences for their failure to timely serve the individual Countrywide Defendants, and to abide by the Orders of this Court, we recommend that this action be dismissed as to those Defendants, for failure to comply with this Court's Order of January 7, 2010, for failure to effect proper service on the individual Countrywide Defendants, and for lack of prosecution.

NOW THEREFORE, It is --

RECOMMENDED:

That this action be dismissed, as to Raquel Robinson, Joe Price, Barbara Desoer, Brian White, Arnold Levin, James Furash, and Paul De Coff, for failure to comply with this Court's Order of January 7, 2010, for failure to effect proper service, and for lack of prosecution.

BY THE COURT:

Dated: March 25, 2010

s/ Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than April 8, 2010**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than April 8, 2010**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.